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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants: Dang *et al.*

Serial No.: 09/944,096

Filed: March 7, 2001

Title: **NOVEL PURINE INHIBITORS OF
FRUCTOSE-1,6-BIPHOSPHATASE**

Group Art Unit: 1624

Examiner: M. Berch

Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

Dear Sir:

This communication is responsive to the Written Restriction Requirement mailed March 18, 2002. As this response is being timely filed within the one-month statutory period for response, it is believed that no fee is due. If, however, any fee should become due or credit become payable during the pendency of this application, the Examiner is authorized to charge or credit the same to deposit account number 50-1273.

The Restriction Requirement

The Examiner has required restriction to one of the following Groups:

CERTIFICATE OF TRANSMISSION
(37 C.F.R. §1.8)

I hereby certify that this paper (along with anything referred to as being attached or enclosed) is being facsimile transmitted to the United States Patent and Trademark Office on the date shown below.

4/11/02
Date of Transmission

Jill C. Youkel
Name of Person Transmitting Paper

Jill C. Youkel
Signature of Person Transmitting Paper

I. Claims 1, 34-37, 39, 42, drawn to tricyclic compounds, classified in class 544, subclass 244.

II. Claims 38 and 41, drawn to Uses not requiring Formula I compounds, classified in Class 514, subclass various.

Group I is hereby elected, with traverse. Withdrawal of the Restriction Requirement is requested.

The Examiner contends that the inventions are distinct, because Group II does not require any structural similarity with the compounds of Formula I, since the compounds could have no heterocycle or P.

According to MPEP § 803, two criteria are required for proper restriction: 1) that the inventions be independent or distinct; and 2) that there be a serious burden on the examiner. The Applicants respectfully submit that the Examiner has not met either of these criteria.

The Examiner has not shown that searching Groups I and II together will be an undue burden. Group I includes claims which are directed toward treating an animal for a disease resulting from abnormally elevated insulin levels (Claim 39) and treating an animal with excess glycogen storage disease (Claim 42). The claims of Group II are directed toward treating an animal for a disease resulting from abnormally elevated insulin levels (Claim 38) and treating an animal with excess glycogen storage disease (Claim 41). A search of Group I will necessarily turn up prior art on Group II. Because of this overlap, the Applicants respectfully submit that the search of Groups I and II together will not pose an undue burden on the Examiner.

For the foregoing reasons, the Applicants respectfully request the Withdrawal of the Restriction Requirement.

The Restriction Requirement was mailed to Edward Kreusser. Please address future correspondence to the undersigned.

Respectfully Submitted,

Date: April 11, 2002

By: Diana L. Bush
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